

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JOCEY WALKER and DARIUS
LAMONT WALKER, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

V

DAVID LEE GLOVER,

Respondent-Appellant,

and

FREDA WALKER and JOSEPH HARRISON,

Respondents.

UNPUBLISHED
February 15, 2005

No. 257779
Wayne Circuit Court
Family Division
LC No. 03-418513-NA

Before: Fort Hood, P.J. and Griffin and Donofrio, JJ.

PER CURIUM.

Respondent-appellant David Glover (hereinafter "respondent") appeals as of right from the trial court's order terminating his parental rights to his son, Darius Walker. Because termination of parental rights is supported by clear and convincing evidence on at least one statutory ground and termination of parental rights is clearly not against the child's best interest, we affirm.¹ This case is being decided without oral argument pursuant to MCR 7.214(E).

Petitioner has the burden of proving a statutory ground for termination by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 350; 612 NW2d 407 (2000). We review the trial court's findings of fact for clear error. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

¹ No appeal was taken from the termination of parental rights regarding Jocey Walker.

Although the trial court identified § 19b(3)(a)(ii) as a statutory ground for termination, it is not apparent that the court intended to apply this ground to respondent, and we agree that the evidence failed to factually support termination of respondent's parental rights under this subsection. Nonetheless, termination of parental rights need only be supported by a single statutory ground. *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). The trial court did not clearly err in finding that §§ 19b(3)(g) and (j) were each proven by clear and convincing evidence.

The court's primary reason for terminating respondent's parental rights was his failure to make progress with his parent-agency agreement. Indeed, the court found that respondent had not "even started the treatment plan." A parent's failure to comply with a parent-agency agreement is evidence of the parent's failure to provide proper care and custody of the child. *In re JK*, 468 Mich 202, 214; 661 NW2d 216 (2003).

It is apparent that respondent's completion of his treatment plan was necessary for the safe return of the child. Petitioner demonstrated that respondent did not have a safe and clean home for the child. Additionally, respondent attended only five of forty scheduled visits with the child, and failed to demonstrate that he had adequate parenting skills during the few visits he attended. Respondent also failed to attend counseling to address his troubled relationship with the child's mother, Freda Walker, who had a lengthy history of cocaine abuse. Because respondent did not complete any requirements of his treatment plan, there was no reasonable expectation that he would be able to provide proper care and custody within a reasonable time, considering the child's age. Therefore, the trial court properly terminated his parental rights under § 19b(3)(g).

Respondent's parental rights were also properly terminated under § 19b(3)(j). Respondent intended to remain in a relationship with Walker and raise the child with her. But Walker had a severe drug problem and failed to obtain substance abuse treatment, and respondent also failed to complete counseling to address these issues. Under these circumstances, the trial court did not clearly err in finding that there was a reasonable likelihood the child would be harmed if returned to respondent.

Respondent also argues that termination of his parental rights was not in the child's best interests. Once the petitioner proves a statutory ground for termination by clear and convincing evidence, "the court must issue an order terminating parental rights unless there exists clear evidence, on the whole record, that termination is not in the child's best interests." *In re Trejo*, *supra* at 354, citing MCL 712A.19b(5). We review the court's best interest decision for clear error. *In re Trejo*, *supra* at 356-357.

The child was placed in foster care shortly after his birth. He had no preexisting relationship with respondent. While the child was in foster care, respondent attended only five of forty possible visits. Despite respondent's testimony that he loved the child and wanted to plan for his future, he did nothing to establish any real bond with the child. The evidence did not show that termination of respondent's parental rights was clearly not in the child's best interests.

Although respondent argues that he should have been given more time to complete his treatment plan, because the trial court properly found that a statutory ground for termination was proven by clear and convincing evidence, and the evidence did not show that termination of

respondent's parental rights was clearly not in the child's best interests, the trial court did not have the authority to allow respondent additional time to work on his treatment plan in order to avoid termination. *In re Gazella*, ___ Mich App ___; ___ NW2d ___ (Docket No. 253008, issued January 4, 2005), slip op at 3-4.

Affirmed.

/s/ Karen M. Fort Hood
/s/ Richard Allen Griffin
/s/ Pat M. Donofrio